

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY APRIL 23, 2007

AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1486

Introduced by Assembly Member Charles Calderon

(Principal coauthor: Senator Steinberg)

(Coauthor: Assembly Member Saldana)

February 23, 2007

An act to amend Sections 728, 805, and 4990 of, and to add Chapter 16 (commencing with Section 4999.10) to Division 2 of, the Business and Professions Code, relating to professional counselors, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1486, as amended, Charles Calderon. Licensed professional counselors.

Existing law provides for the licensure and regulation of marriage and family therapists and social workers by the Board of Behavioral Sciences, in the Department of Consumer Affairs. Under existing law, the Board of Behavioral Sciences consists of 11 members.

This bill would provide for the licensure or registration and regulation of licensed professional counselors and interns by the Board of Behavioral Sciences. The bill would add 4 additional members to the board, to be appointed by the Governor. The bill would enact various provisions concerning the practice of licensed professional counselors,

interns, and trainees, including, but not limited to, practice requirements, and enforcement specifications. The bill would authorize the issuance of licenses between October 1, 2008, and March 31, 2009, to individuals who meet certain criteria. The bill would authorize the board to begin accepting applications for intern registration on January 1, 2009, and for professional counselor licensure on January 1, 2010. The bill would authorize the board to impose specified fees on licensed professional counselors and interns which would be deposited in the Behavioral Sciences Fund ~~and would make a continuous appropriation from that fund to the board~~ to carry out the provisions of the bill. The bill would provide that the startup costs of the program shall be funded by a loan from the Behavioral Sciences Fund, upon appropriation by the Legislature. The bill would provide that a violation of its provisions is a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~yes~~*no*. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 728 of the Business and Professions Code
- 2 is amended to read:
- 3 728. (a) Any psychotherapist or employer of a psychotherapist
- 4 who becomes aware through a patient that the patient had alleged
- 5 sexual intercourse or alleged sexual contact with a previous
- 6 psychotherapist during the course of a prior treatment, shall provide
- 7 to the patient a brochure promulgated by the department that
- 8 delineates the rights of, and remedies for, patients who have been
- 9 involved sexually with their psychotherapist. Further, the
- 10 psychotherapist or employer shall discuss with the patient the
- 11 brochure prepared by the department.
- 12 (b) Failure to comply with this section constitutes unprofessional
- 13 conduct.
- 14 (c) For the purpose of this section, the following definitions
- 15 apply:

(1) “Psychotherapist” means a physician and surgeon specializing in the practice of psychiatry or practicing psychotherapy, a psychologist, a clinical social worker, a marriage and family therapist, a licensed professional counselor, a psychological assistant, a marriage and family therapist registered intern or trainee, an intern or trainee as specified in Chapter 16 (commencing with Section 4999.10), or an associate clinical social worker.

(2) “Sexual contact” means the touching of an intimate part of another person.

(3) “Intimate part” and “touching” have the same meaning as defined in subdivisions (f) and (d), respectively, of Section 243.4 of the Penal Code.

(4) “The course of a prior treatment” means the period of time during which a patient first commences treatment for services that a psychotherapist is authorized to provide under his or her scope of practice, or that the psychotherapist represents to the patient as being within his or her scope of practice, until the psychotherapist-patient relationship is terminated.

SEC. 2. Section 805 of the Business and Professions Code is amended to read:

805. (a) As used in this section, the following terms have the following definitions:

(1) “Peer review body” includes:

(A) A medical or professional staff of any health care facility or clinic licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare Program as an ambulatory surgical center.

(B) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that contracts with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code.

(C) Any medical, psychological, marriage and family therapy, social work, licensed professional counseling, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and

1 which has been determined to be exempt from taxes pursuant to
2 Section 23701 of the Revenue and Taxation Code.

3 (D) A committee organized by any entity consisting of or
4 employing more than 25 licentiates of the same class that functions
5 for the purpose of reviewing the quality of professional care
6 provided by members or employees of that entity.

7 (2) "Licentiate" means a physician and surgeon, podiatrist,
8 clinical psychologist, marriage and family therapist, clinical social
9 worker, licensed professional counselor, or dentist. "Licentiate"
10 also includes a person authorized to practice medicine pursuant to
11 Section 2113.

12 (3) "Agency" means the relevant state licensing agency having
13 regulatory jurisdiction over the licentiates listed in paragraph (2).

14 (4) "Staff privileges" means any arrangement under which a
15 licentiate is allowed to practice in or provide care for patients in
16 a health facility. Those arrangements shall include, but are not
17 limited to, full staff privileges, active staff privileges, limited staff
18 privileges, auxiliary staff privileges, provisional staff privileges,
19 temporary staff privileges, courtesy staff privileges, locum tenens
20 arrangements, and contractual arrangements to provide professional
21 services, including, but not limited to, arrangements to provide
22 outpatient services.

23 (5) "Denial or termination of staff privileges, membership, or
24 employment" includes failure or refusal to renew a contract or to
25 renew, extend, or reestablish any staff privileges, if the action is
26 based on medical disciplinary cause or reason.

27 (6) "Medical disciplinary cause or reason" means that aspect
28 of a licentiate's competence or professional conduct that is
29 reasonably likely to be detrimental to patient safety or to the
30 delivery of patient care.

31 (7) "805 report" means the written report required under
32 subdivision (b).

33 (b) The chief of staff of a medical or professional staff or other
34 chief executive officer, medical director, or administrator of any
35 peer review body and the chief executive officer or administrator
36 of any licensed health care facility or clinic shall file an 805 report
37 with the relevant agency within 15 days after the effective date of
38 any of the following that occur as a result of an action of a peer
39 review body:

1 (1) A licentiate's application for staff privileges or membership
2 is denied or rejected for a medical disciplinary cause or reason.

3 (2) A licentiate's membership, staff privileges, or employment
4 is terminated or revoked for a medical disciplinary cause or reason.

5 (3) Restrictions are imposed, or voluntarily accepted, on staff
6 privileges, membership, or employment for a cumulative total of
7 30 days or more for any 12-month period, for a medical disciplinary
8 cause or reason.

9 (c) The chief of staff of a medical or professional staff or other
10 chief executive officer, medical director, or administrator of any
11 peer review body and the chief executive officer or administrator
12 of any licensed health care facility or clinic shall file an 805 report
13 with the relevant agency within 15 days after any of the following
14 occur after notice of either an impending investigation or the denial
15 or rejection of the application for a medical disciplinary cause or
16 reason:

17 (1) Resignation or leave of absence from membership, staff, or
18 employment.

19 (2) The withdrawal or abandonment of a licentiate's application
20 for staff privileges or membership.

21 (3) The request for renewal of those privileges or membership
22 is withdrawn or abandoned.

23 (d) For purposes of filing an 805 report, the signature of at least
24 one of the individuals indicated in subdivision (b) or (c) on the
25 completed form shall constitute compliance with the requirement
26 to file the report.

27 (e) An 805 report shall also be filed within 15 days following
28 the imposition of summary suspension of staff privileges,
29 membership, or employment, if the summary suspension remains
30 in effect for a period in excess of 14 days.

31 (f) A copy of the 805 report, and a notice advising the licentiate
32 of his or her right to submit additional statements or other
33 information pursuant to Section 800, shall be sent by the peer
34 review body to the licentiate named in the report.

35 The information to be reported in an 805 report shall include the
36 name and license number of the licentiate involved, a description
37 of the facts and circumstances of the medical disciplinary cause
38 or reason, and any other relevant information deemed appropriate
39 by the reporter.

1 A supplemental report shall also be made within 30 days
2 following the date the licensee is deemed to have satisfied any
3 terms, conditions, or sanctions imposed as disciplinary action by
4 the reporting peer review body. In performing its dissemination
5 functions required by Section 805.5, the agency shall include a
6 copy of a supplemental report, if any, whenever it furnishes a copy
7 of the original 805 report.

8 If another peer review body is required to file an 805 report, a
9 health care service plan is not required to file a separate report
10 with respect to action attributable to the same medical disciplinary
11 cause or reason. If the Medical Board of California or a licensing
12 agency of another state revokes or suspends, without a stay, the
13 license of a physician and surgeon, a peer review body is not
14 required to file an 805 report when it takes an action as a result of
15 the revocation or suspension.

16 (g) The reporting required by this section shall not act as a
17 waiver of confidentiality of medical records and committee reports.
18 The information reported or disclosed shall be kept confidential
19 except as provided in subdivision (c) of Section 800 and Sections
20 803.1 and 2027, provided that a copy of the report containing the
21 information required by this section may be disclosed as required
22 by Section 805.5 with respect to reports received on or after
23 January 1, 1976.

24 (h) The Medical Board of California, the Osteopathic Medical
25 Board of California, and the Dental Board of California shall
26 disclose reports as required by Section 805.5.

27 (i) An 805 report shall be maintained by an agency for
28 dissemination purposes for a period of three years after receipt.

29 (j) No person shall incur any civil or criminal liability as the
30 result of making any report required by this section.

31 (k) A willful failure to file an 805 report by any person who is
32 designated or otherwise required by law to file an 805 report is
33 punishable by a fine not to exceed one hundred thousand dollars
34 (\$100,000) per violation. The fine may be imposed in any civil or
35 administrative action or proceeding brought by or on behalf of any
36 agency having regulatory jurisdiction over the person regarding
37 whom the report was or should have been filed. If the person who
38 is designated or otherwise required to file an 805 report is a
39 licensed physician and surgeon, the action or proceeding shall be
40 brought by the Medical Board of California. The fine shall be paid

1 to that agency but not expended until appropriated by the
2 Legislature. A violation of this subdivision may constitute
3 unprofessional conduct by the licentiate. A person who is alleged
4 to have violated this subdivision may assert any defense available
5 at law. As used in this subdivision, “willful” means a voluntary
6 and intentional violation of a known legal duty.

7 (l) Except as otherwise provided in subdivision (k), any failure
8 by the administrator of any peer review body, the chief executive
9 officer or administrator of any health care facility, or any person
10 who is designated or otherwise required by law to file an 805
11 report, shall be punishable by a fine that under no circumstances
12 shall exceed fifty thousand dollars (\$50,000) per violation. The
13 fine may be imposed in any civil or administrative action or
14 proceeding brought by or on behalf of any agency having
15 regulatory jurisdiction over the person regarding whom the report
16 was or should have been filed. If the person who is designated or
17 otherwise required to file an 805 report is a licensed physician and
18 surgeon, the action or proceeding shall be brought by the Medical
19 Board of California. The fine shall be paid to that agency but not
20 expended until appropriated by the Legislature. The amount of the
21 fine imposed, not exceeding fifty thousand dollars (\$50,000) per
22 violation, shall be proportional to the severity of the failure to
23 report and shall differ based upon written findings, including
24 whether the failure to file caused harm to a patient or created a
25 risk to patient safety; whether the administrator of any peer review
26 body, the chief executive officer or administrator of any health
27 care facility, or any person who is designated or otherwise required
28 by law to file an 805 report exercised due diligence despite the
29 failure to file or whether they knew or should have known that an
30 805 report would not be filed; and whether there has been a prior
31 failure to file an 805 report. The amount of the fine imposed may
32 also differ based on whether a health care facility is a small or
33 rural hospital as defined in Section 124840 of the Health and Safety
34 Code.

35 (m) A health care service plan registered under Chapter 2.2
36 (commencing with Section 1340) of Division 2 of the Health and
37 Safety Code or a disability insurer that negotiates and enters into
38 a contract with licentiates to provide services at alternative rates
39 of payment pursuant to Section 10133 of the Insurance Code, when
40 determining participation with the plan or insurer, shall evaluate,

1 on a case-by-case basis, licentiates who are the subject of an 805
2 report, and not automatically exclude or deselect these licentiates.

3 SEC. 3. Section 4990 of the Business and Professions Code is
4 amended to read:

5 4990. (a) There is in the Department of Consumer Affairs, a
6 Board of Behavioral Sciences that consists of 15 members
7 composed as follows:

8 (1) Two state licensed clinical social workers.

9 (2) One state licensed educational psychologist.

10 (3) Two state licensed marriage and family therapists.

11 (4) Two licensed professional counselors.

12 (5) Eight public members.

13 (b) Each member, except the eight public members, shall have
14 at least two years of experience in his or her profession.

15 (c) Each member shall reside in the State of California.

16 (d) The Governor shall appoint six of the public members and
17 the seven licensed members with the advice and consent of the
18 Senate. The Senate Committee on Rules and the Speaker of the
19 Assembly shall each appoint a public member.

20 (e) Each member of the board shall be appointed for a term of
21 four years. A member appointed by the Speaker of the Assembly
22 or the Senate Committee on Rules shall hold office until the
23 appointment and qualification of his or her successor or until one
24 year from the expiration date of the term for which he or she was
25 appointed, whichever first occurs. Pursuant to Section 1774 of the
26 Government Code, a member appointed by the Governor shall
27 hold office until the appointment and qualification of his or her
28 successor or until 60 days from the expiration date of the term for
29 which he or she was appointed, whichever first occurs.

30 (f) A vacancy on the board shall be filled by appointment for
31 the unexpired term by the authority who appointed the member
32 whose membership was vacated.

33 (g) Not later than the first of June of each calendar year, the
34 board shall elect a chairperson and a vice chairperson from its
35 membership.

36 (h) Each member of the board shall receive a per diem and
37 reimbursement of expenses as provided in Section 103.

38 (i) This section shall become inoperative on July 1, 2009, and,
39 as of January 1, 2010, is repealed, unless a later enacted statute,

1 that is enacted before January 1, 2010, deletes or extends the dates
2 on which it becomes inoperative and is repealed.

3 SEC. 4. Chapter 16 (commencing with Section 4999.10) is
4 added to Division 2 of the Business and Professions Code, to read:

5
6 CHAPTER 16. LICENSED PROFESSIONAL COUNSELORS

7
8 Article 1. Administration
9

10 4999.10. This chapter constitutes, and may be cited as, the
11 Licensed Professional Counselor Act.

12 4999.12. For purposes of this chapter, the following terms have
13 the following meanings:

14 (a) "Board" means the Board of Behavioral Sciences.

15 (b) "Accredited" means a school, college, or university
16 accredited by the Western Association of Schools and Colleges,
17 or its equivalent regional accrediting association.

18 (c) "Approved" means a school, college, or university that
19 possessed unconditional approval by the Bureau for Private
20 Postsecondary and Vocational Education at the time of the
21 applicant's graduation from the school, college, or university.

22 (d) "Applicant" means an unlicensed person who has completed
23 a master's or doctoral degree program, as specified in Section
24 4999.32, and whose application for registration as an intern is
25 pending or who is in the examination process, or an unlicensed
26 person who has completed the requirements for licensure specified
27 in this chapter, is no longer registered with the board as an intern,
28 and is currently in the examination process.

29 (e) "Licensed professional counselor" or "LPC" means a person
30 licensed under this chapter to practice professional counseling, as
31 defined in Section 4999.20.

32 (f) "Intern" means an unlicensed person who meets the
33 requirements of Section 4999.42 and is registered with the board.

34 (g) "Trainee" means an unlicensed person who is currently
35 enrolled in a master's or doctoral degree program, as specified in
36 Section 4999.32, that is designed to qualify him or her for licensure
37 under this chapter, and who has completed no less than 12 semester
38 units or 18 quarter units of coursework in any qualifying degree
39 program.

(h) “Approved supervisor” means an individual who meets the following requirements:

(1) Has documented two years of clinical experience as a licensed professional counselor, licensed marriage and family therapist, licensed clinical psychologist, licensed clinical social worker, or licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology.

(2) Has received professional training in supervision.

(3) Has not provided therapeutic services to the trainee or intern.

(4) Has a current and valid license that is not under suspension or probation.

(i) “Professional enrichment activities” includes the following:

(1) Workshops, seminars, training sessions, or conferences directly related to professional counseling attended by the applicant and approved by the applicant’s supervisor.

(2) Participation by the applicant in group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional.

(j) “Advertising” or “advertise” includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

(k) “Assessment” means selecting, administering, scoring, and interpreting psychological and educational instruments designed to assess an individual’s attitudes, abilities, achievements, interests, personal characteristics, disabilities, and mental, emotional, and behavioral disorders and the use of methods and techniques for understanding human behavior in relation to coping with, adapting to, or changing life situations.

(l) “Consulting” means the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the consultee may have in relation to a third party, be it an individual, a group, or an organization.

1 (m) “Counseling interventions” means the application of
2 cognitive, affective, behavioral, or holistic counseling strategies
3 that include principles of development, wellness, and pathology
4 that reflect a pluralistic society. Such interventions are specifically
5 implemented in the context of a professional counseling
6 relationship and use a variety of counseling theories and
7 approaches.

8 (n) “Referral” means evaluating and identifying the needs of a
9 client to determine whether it is advisable to refer the client to
10 other specialists, informing the client of that judgment, and
11 communicating that determination as requested or deemed
12 appropriate to referral sources.

13 (o) “Research” means a systematic effort to collect, analyze,
14 and interpret quantitative and qualitative data that describes how
15 social characteristics, behavior, emotion, cognitions, disabilities,
16 mental disorders, and interpersonal transactions among individuals
17 and organizations interact.

18 (p) “Supervision” includes the following:

19 (1) Ensuring that the extent, kind, and quality of counseling
20 performed is consistent with the education, training, and experience
21 of the person being supervised.

22 (2) Reviewing client or patient records, monitoring and
23 evaluating assessment, diagnosis, and treatment decisions of the
24 trainee.

25 (3) Monitoring and evaluating the ability of the intern or trainee
26 to provide services to the particular clientele at the site or sites
27 where he or she will be practicing.

28 (4) Ensuring compliance with laws and regulations governing
29 the practice of licensed professional counseling.

30 (5) That amount of direct observation, or review of audio or
31 video tapes of therapy, as deemed appropriate by the supervisor.

32 4999.14. The board shall do all of the following:

33 (a) Communicate information about its activities, the
34 requirements and qualifications for licensure, and the practice of
35 professional counseling to the relevant educational institutions,
36 supervisors, professional associations, applicants, trainees, interns,
37 and the public.

38 (b) Develop policies and procedures to assist educational
39 institutions in meeting the educational qualifications of Section
40 4999.32.

Article 2. Scope of Practice

4999.20. (a) Professional counseling means the application of psychotherapeutic techniques and mental health or human developmental principles through assessment, cognitive, affective, behavioral, verbal or nonverbal, or systemic intervention strategies, consistent with scope and coursework and training required in subdivision (c) of Section 4999.32, and Sections 4999.38 and 4999.46 that address wellness, personal growth, adjustment to disability, crisis intervention, as well as pathology, and empower individuals to deal adequately with life situations, reduce stress, experience growth, and make well-informed, rational decisions.

(b) Professional counselors are restricted to the use of specific methods, techniques, or modalities for which they have the appropriate education and training. Professional counselors shall refer clients to other mental health professionals when they identify issues beyond their own scope of education, training, supervision, and experience.

4999.22. (a) Nothing in this chapter shall prevent qualified persons from doing work of a psychosocial nature consistent with the standards and ethics of their respective professions. However, these qualified persons shall not hold themselves out to the public by any title or description of services incorporating the words licensed professional counselor and shall not state that they are licensed to practice professional counseling.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw provisions of the Medical Practice Act, the Clinical Social Worker Practice Act, the Nursing Practice Act, the Psychology Licensing Law, or marriage and family therapy licensing laws.

(c) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination who performs counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in this state, or who is licensed to practice medicine, who provides counseling services as part of his or her professional practice.

(d) This chapter shall not apply to an employee of a governmental entity or of a school, college, or university, or of an institution both nonprofit and charitable, if his or her practice is performed solely under the supervision of the entity, school, or

1 organization by which he or she is employed, and if he or she
2 performs those functions as part of the position for which he or
3 she is employed.

4 (e) All persons registered as interns or licensed under this
5 chapter shall not be exempt from this chapter or the jurisdiction
6 of the board.

7 4999.24. Nothing in this chapter shall restrict or prevent
8 activities of a psychotherapeutic nature on the part of persons
9 employed by accredited or state-approved academic institutions,
10 public schools, government agencies, or nonprofit institutions
11 engaged in the training of graduate students or trainees pursuing
12 a course of study leading to a degree that qualifies for professional
13 counselor licensure at an accredited or state-approved college or
14 university, or working in a recognized training program, provided
15 that these activities and services constitute a part of a supervised
16 course of study and that those persons are designated by a title
17 such as “trainee” or other title clearly indicating the training status
18 appropriate to the level of training.

19
20 Article 3. Licensure
21

22 4999.30. Except as otherwise provided in this chapter, a person
23 shall not practice or advertise the performance of professional
24 counseling services without a license issued by the board, and shall
25 pay the license fee required by this chapter.

26 4999.32. The educational qualifications for licensure as a
27 professional counselor include all of the following:

28 (a) A master’s or doctoral degree in counseling, or a closely
29 related degree, obtained from an accredited or approved institution.

30 (b) Not less than 48 graduate semester units or 72 graduate
31 quarter units of instruction. On January 1, 2013, the minimum
32 number of graduate units required shall increase to 60 semester
33 units or 90 quarter units, and shall include a 48 graduate semester
34 unit or 72 graduate quarter unit master’s or doctoral degree.

35 (c) The 48 graduate semester units or 72 graduate quarter units
36 shall include all of the following:

37 (1) The equivalent of at least three semester units or four and
38 one-half quarter units of graduate study in each of following areas:

39 (A) Counseling and psychotherapeutic theories and techniques.

- 1 (B) Human growth and development across the lifespan,
- 2 including normal and abnormal behavior.
- 3 (C) Career development theories and techniques.
- 4 (D) Group counseling theories and techniques.
- 5 (E) Assessment, appraisal, and testing of individuals.
- 6 (F) Multicultural counseling theories and techniques.
- 7 (G) Principles of diagnosis, treatment planning, and prevention
- 8 of mental and emotional disorders and dysfunctional behavior,
- 9 including the use of the American Psychiatric Association's
- 10 "Diagnostic and Statistical Manual of Mental Disorders."
- 11 (H) Research and evaluation.
- 12 (I) Professional orientation, ethics, and law in counseling.
- 13 (2) Additional coursework including special treatment issues
- 14 and special population issues, as well as supervised clinical
- 15 practicum or field study experience, as defined in paragraph (4).
- 16 (3) The master's or doctoral degree shall contain at least seven
- 17 of the nine courses listed in subparagraphs (A) through (I) of
- 18 paragraph (1).
- 19 (A) An applicant whose degree is deficient in the required areas
- 20 of study or in the required units pursuant to this section may satisfy
- 21 the requirements by successfully completing postmaster's or
- 22 postdoctoral degree coursework at an accredited or approved
- 23 institution.
- 24 (B) Coursework taken to meet deficiencies in the required areas
- 25 of study listed in subparagraphs (A) to (I), inclusive, of paragraph
- 26 (1) shall be the equivalent of three semester units or four and
- 27 one-half quarter units of study. Coursework taken beyond the
- 28 required areas of study shall include counseling modalities or
- 29 treatment with special populations.
- 30 (C) The board shall make the final determination as to whether
- 31 a degree meets all requirements, including, but not limited to,
- 32 course requirements, regardless of accreditation.
- 33 (4) Not less than six semester units or nine quarter units of
- 34 supervised practicum or field study experience, or the equivalent,
- 35 in a clinical or counseling setting that provides a range of
- 36 professional counseling experience, including the following:
- 37 (A) Applied psychotherapeutic techniques.
- 38 (B) Assessment.
- 39 (C) Diagnosis.
- 40 (D) Prognosis.

1 (E) Treatment.

2 (F) Issues of development, adjustment, and maladjustment.

3 (G) Health and wellness promotion.

4 (H) Other recognized counseling interventions.

5 (I) A minimum of 150 hours of face-to-face supervised
6 experience counseling individuals, families, or groups. On January
7 1, 2013, the minimum number of hours of face-to-face experience
8 shall increase to 280 hours.

9 4999.34. A trainee may be credited with predegree supervised
10 practicum and field study experience completed in a setting that
11 meets all of the following requirements:

12 (a) Lawfully and regularly provides counseling or
13 psychotherapy.

14 (b) Provides oversight to ensure that the trainee's work at the
15 setting meets the practicum and field study experience and
16 requirements set forth in this chapter and is within the scope of
17 practice for licensed professional counselors.

18 (c) Is not a private practice.

19 (d) Experience may be gained by the trainee solely as part of
20 the position for which the trainee volunteers or is employed.

21 4999.36. (a) Trainees may perform activities and services
22 provided that the activities and services constitute part of the
23 trainee's supervised course of study and that the person is
24 designated by the title "trainee."

25 (b) All practicum and field study hours gained as a trainee shall
26 be coordinated between the school and the site where hours are
27 being accrued. The school shall approve each site and shall have
28 a written agreement with each site that details each party's
29 responsibilities, including the methods by which supervision shall
30 be provided. The agreement shall provide for regular progress
31 reports and evaluations of the student's performance at the site.

32 (c) If an applicant has gained practicum and field study hours
33 while enrolled in an institution other than the one that confers the
34 qualifying degree, it shall be the applicant's responsibility to
35 provide to the board satisfactory evidence that those practicum
36 and field study hours were gained in compliance with this section.

37 (d) A trainee shall inform each client or patient, prior to
38 performing any professional services, that he or she is unlicensed
39 and under supervision.

1 (e) No hours earned while a trainee may count toward the 3,000
2 hours of postdegree internship hours.

3 (f) A trainee shall receive at least one hour of individual or
4 triadic supervision and one and one-half hours of group supervision
5 for each week the trainee sees clients, for a total of two and
6 one-half hours of supervision per week. For purposes of this
7 subdivision, “individual supervision” means face-to-face contact
8 with the supervisor alone, “triadic supervision” means face-to-face
9 contact with the supervisor and one other trainee, and “group
10 supervision” means face-to-face contact with the supervisor in a
11 group of not more than 10 persons.

12 4999.38. In addition to the educational requirements of Section
13 4999.32, all applicants shall complete the following coursework
14 or training prior to licensure:

15 (a) Instruction in alcoholism and other chemical substance
16 dependency as specified by regulation. When coursework in a
17 master’s or doctoral degree program is acquired to satisfy this
18 requirement, it shall be considered as part of the 48 semester unit
19 or 72 quarter unit requirement in subdivision (b) of Section
20 4999.32. This subdivision applies to those individuals who began
21 graduate study on or after January 1, 1986.

22 (b) A minimum of 10 contact hours of training or coursework
23 in human sexuality as specified in Section 25, and any regulations
24 promulgated thereunder. When coursework in a master’s or
25 doctoral degree program is acquired to satisfy this requirement, it
26 shall be considered as part of the 48 semester unit or 72 quarter
27 unit requirement in subdivision (b) of Section 4999.32.

28 (c) A minimum of a two semester unit or three quarter unit
29 survey course in psychological testing. This subdivision applies
30 to individuals who began graduate study on or after January 1,
31 2001. The requirement added by this subdivision is intended to
32 improve the educational qualifications for licensure in order to
33 better prepare future licentiates for practice, and is not intended
34 in any way to expand or restrict the scope of licensure for
35 professional counselors.

36 (d) A two semester unit or three quarter unit survey course in
37 psychopharmacology. This subdivision applies to individuals who
38 began graduate study on or after January 1, 2001. After January
39 1, 2013, this requirement shall expand to a three semester unit or
40 four and one-half quarter unit course and include the biological

1 bases for behavior. The requirement added by this subdivision is
2 intended to improve the educational qualifications for licensure in
3 order to better prepare future licentiates for practice, and is not
4 intended in any way to expand or restrict the scope of licensure
5 for professional counselors.

6 (e) Coursework in spousal or partner abuse assessment,
7 detection, and intervention strategies, including knowledge of
8 community resources, cultural factors, and same gender abuse
9 dynamics. This subdivision shall apply to individuals who began
10 graduate study on or after January 1, 1995. Applicants who began
11 graduate study on or after January 1, 2004, shall complete a
12 minimum of 15 contact hours of coursework to satisfy this
13 requirement.

14 (f) A minimum of seven contact hours of training or coursework
15 in child abuse assessment and reporting as specified in Section 28
16 and any regulations adopted thereunder.

17 (g) A minimum of two semester unit or three quarter units in
18 California law and professional ethics for professional counselors,
19 which shall include, but not be limited to, the following areas of
20 study:

21 (1) Contemporary professional ethics and statutory, regulatory,
22 and decisional law that delineates the profession's scope of
23 practice.

24 (2) The therapeutic, clinical, and practical considerations
25 involved in the legal and ethical practice of professional counseling.

26 (3) The current legal patterns and trends in the mental health
27 profession.

28 (4) The psychotherapist-patient privilege, confidentiality, the
29 patient dangerous to self or others, and the treatment of minors
30 with and without parental consent.

31 (5) A recognition and exploration of the relationship between
32 a practitioner's sense of self and human values and his or her
33 professional behavior and ethics.

34 (h) A minimum of 10 contact hours of coursework in aging and
35 long-term care, which may include, but is not limited to, the
36 biological, social, and psychological aspects of aging.

37 (1) Coursework taken in fulfillment of other educational
38 requirements for licensure as a professional counselor, or in a
39 separate course of study, may, at the discretion of the board, fulfill
40 the requirements of this subdivision.

1 (2) This subdivision shall apply to individuals who began
2 graduate study on or after January 1, 2004.

3 4999.40. (a) Each educational institution preparing applicants
4 to qualify for licensure shall notify each of its students by means
5 of its public documents or otherwise in writing that its degree
6 program is designed to meet the requirements of Section 4999.32
7 and shall certify to the board that it has so notified its students.

8 (b) An applicant trained at an educational institution outside the
9 United States shall demonstrate to the satisfaction of the board
10 that he or she possesses a qualifying degree that is equivalent to a
11 degree earned from an institution of higher education that is
12 accredited or approved. These applicants shall provide the board
13 with a comprehensive evaluation of the degree performed by a
14 foreign credential evaluation service that is a member of the
15 National Association of Credential Evaluation Services and shall
16 provide any other documentation the board deems necessary.

17 4999.42. (a) To qualify for registration as an intern, an
18 applicant shall have all of the following qualifications:

19 (1) The applicant shall have earned a master's or doctoral degree
20 as specified in Section 4999.32.

21 (2) The applicant shall not have committed acts or crimes
22 constituting grounds for denial of licensure under Section 480.

23 (3) The board shall not issue a registration to any person who
24 has been convicted of a crime in this or another state or in a
25 territory of the United States that involves sexual abuse of children
26 or who is required to register pursuant to Section 290 of the Penal
27 Code or the equivalent in another state or territory.

28 (b) The board shall begin accepting applications for intern
29 registration on January 1, 2009.

30 4999.44. (a) An intern may be credited with supervised
31 experience completed in any setting that meets all of the following
32 requirements:

33 (1) Lawfully and regularly provides counseling or
34 psychotherapy.

35 (2) Provides oversight to ensure that the intern's work at the
36 setting meets the experience and supervision requirements set forth
37 in this chapter and is within the scope of practice for the profession
38 as specified in Article 2 (commencing with Section 4999.20).

39 (3) Experience may be gained by the intern solely as part of the
40 position for which the intern volunteers or is employed.

1 (4) An intern shall not be employed or volunteer in a private
2 practice until registered as an intern.

3 4999.45. An intern employed under this chapter shall:

4 (a) Not perform any duties, except for those services provided
5 as a trainee, until registered as an intern.

6 (b) Not be employed or volunteer in a private practice until
7 registered as an intern.

8 (c) Inform each client prior to performing any professional
9 services that he or she is unlicensed and under supervision.

10 (d) File for renewal annually for a maximum of five years after
11 initial registration with the board.

12 (e) Cease continued employment as an intern after six years
13 unless the requirements of subdivision (f) are met.

14 (f) When no further renewals are possible, an applicant may
15 apply for and obtain a new intern registration if the applicant meets
16 the educational requirements for registration in effect at the time
17 of the application for a new intern registration. An applicant issued
18 a subsequent intern registration pursuant to this subdivision may
19 be employed or volunteer in any allowable work setting except
20 private practice.

21 4999.46. (a) Each applicant for licensure shall complete
22 experience under the general supervision of an approved supervisor
23 as defined in Section 4999.12.

24 (b) The experience shall include the following:

25 (1) A minimum of 3,000 postdegree hours of supervised
26 experience related to the practice of professional counseling,
27 performed over a period of not less than two years (104 weeks)
28 which shall include:

29 (A) Not more than 40 hours in any seven consecutive days.

30 (B) Not less than 1,750 hours of direct counseling with
31 individuals or groups in a clinical or counseling setting using a
32 variety of psychotherapeutic techniques and recognized counseling
33 interventions within the scope of practice of licensed professional
34 counselors.

35 (C) Not less than 150 hours of experience in a hospital or
36 community mental health setting.

37 (D) Not more than 1,000 hours of direct supervisor contact and
38 professional enrichment activities.

39 (E) Not more than 500 hours of experience providing group
40 therapy or group counseling.

1 (F) Not more than 250 hours of experience administering and
2 evaluating psychological tests of counselees, writing clinical
3 reports, writing progress notes, or writing process notes.

4 (G) Not more than 250 hours of experience providing counseling
5 or crisis counseling on the telephone.

6 (H) No hours of experience may be gained more than six years
7 prior to the date the application for licensure was filed.

8 (c) An applicant shall register with the board as an intern in
9 order to be credited for postdegree hours of experience toward
10 licensure. Postdegree hours of experience shall be credited toward
11 licensure, provided that the applicant applies for intern registration
12 within 90 days of the granting of the qualifying degree and is
13 registered as an intern by the board.

14 (d) All applicants and interns shall be at all times under the
15 supervision of a supervisor who shall be responsible for ensuring
16 that the extent, kind, and quality of counseling performed is
17 consistent with the training and experience of the person being
18 supervised, and who shall be responsible to the board for
19 compliance with all laws, rules, and regulations governing the
20 practice of professional counseling. At no time shall a supervisor
21 supervise more than two interns.

22 (e) Supervision shall include at least one hour of direct
23 supervisor contact in each week for which experience is credited
24 in each work setting.

25 (1) No more than than five hours of supervision, whether
26 individual or group, shall be credited during any single week.

27 (2) An intern shall receive an average of at least one hour of
28 direct supervisor contact for every 10 hours of client contact in
29 each setting.

30 (3) For purposes of this section, “one hour of direct supervisor
31 contact” means one hour of face-to-face contact on an individual
32 basis or two hours of face-to-face contact in a group of not more
33 than eight persons.

34 4999.47. (a) Trainees, interns, and applicants shall perform
35 services as an employee or as a volunteer, not as an independent
36 contractor.

37 The requirements of this chapter regarding gaining hours of
38 experience and supervision are applicable equally to employees
39 and volunteers.

1 (b) Trainees, interns, and applicants shall not receive any
2 remuneration from patients or clients, and shall only be paid by
3 their employers.

4 (c) While an intern may be either a paid employee or a volunteer,
5 employers are encouraged to provide fair remuneration.

6 (d) Trainees, interns, and applicants who provide voluntary
7 services or other services, and who receive no more than a total,
8 from all work settings, of five hundred dollars (\$500) per month
9 as reimbursement for expenses actually incurred by those trainees,
10 interns, and applicants for services rendered in any lawful work
11 setting other than a private practice shall be considered an
12 employee and not an independent contractor.

13 (e) The board may audit a trainee, intern, or applicant who
14 receives reimbursement for expenses and the trainee, intern, or
15 applicant shall have the burden of demonstrating that the payments
16 received were for reimbursement of expenses actually incurred.

17 (f) Trainees, interns, and applicants shall only perform services
18 at the place where their employer regularly conducts business and
19 services, which may include other locations, as long as the services
20 are performed under the direction and control of the employer and
21 supervisor in compliance with the laws and regulations pertaining
22 to supervision. Trainees, interns, and applicants shall have no
23 proprietary interest in the employer's business.

24 (g) Each educational institution preparing applicants for
25 licensure pursuant to this chapter shall consider requiring, and
26 shall encourage, its students to undergo individual, marital or
27 conjoint, family, or group counseling or psychotherapy, as
28 appropriate. Each supervisor shall consider, advise, and encourage
29 his or her interns and trainees regarding the advisability of
30 undertaking individual, marital or conjoint, family, or group
31 counseling or psychotherapy, as appropriate. Insofar as it is deemed
32 appropriate and is desired by the applicant, the educational
33 institution and supervisors are encouraged to assist the applicant
34 in locating that counseling or psychotherapy at a reasonable cost.

35 4999.48. The board shall adopt regulations regarding the
36 supervision of interns which may include, but not be limited to,
37 the following:

38 (a) Supervisor qualifications.

39 (b) Continuing education requirements of supervisors.

40 (c) Registration or licensing of supervisors, or both.

1 (d) General responsibilities of supervisors.

2 (e) The board's authority in cases of noncompliance or
3 negligence by supervisors.

4 4999.50. (a) The board may issue a license in professional
5 counseling to any person who meets all of the following
6 requirements:

7 (1) He or she has received a master's or doctoral degree in
8 counseling, or a closely related degree, as provided in Section
9 4999.32, from an institution that is accredited or approved.

10 (2) He or she has completed 3,000 hours of supervised
11 experience in the practice of professional counseling as provided
12 in Section 4999.46.

13 (3) He or she provides evidence of a passing score, as
14 determined by the board, on examinations approved by the board.

15 (4) He or she meets the board's regulatory requirements for
16 professional counselor licensure, including the following:

17 (A) The applicant has not committed acts or crimes constituting
18 grounds for denial of licensure under Section 480.

19 (B) The board shall not issue a license to any person who has
20 been convicted of a crime in this or another state or in a territory
21 of the United States that involves sexual abuse of children or who
22 is required to register pursuant to Section 290 of the Penal Code
23 or the equivalent in another state or territory.

24 (C) He or she has passed a fingerprint check.

25 (b) The board may issue a license to any person who, at the time
26 of application, has held for at least two years, a valid license as a
27 professional counselor, or an equivalent title, in another jurisdiction
28 of the United States, if the education and supervised experience
29 requirements are substantially equivalent to this chapter, and the
30 person has successfully completed an examination as specified in
31 paragraph (3) of subdivision (a) and has paid the required fees.

32 (c) An applicant who has satisfied the requirements of this
33 chapter shall be issued a license as a professional counselor in the
34 form that the board may deem appropriate.

35 (d) The board shall begin accepting applications for licensure
36 on January 1, 2010.

37 4999.52. (a) Every applicant for a license as a professional
38 counselor shall be examined by the board pursuant to paragraph
39 (3) of subdivision (a) of Section 4999.50. The board shall examine
40 the candidate with regard to his or her knowledge and professional

1 skills and his or her judgment in the utilization of appropriate
2 techniques and methods.

3 (b) The examination shall be given at least twice a year at a time
4 and place and under supervision as the board may determine.

5 (c) (1) It is the intent of the Legislature that a national licensing
6 examination, such as the National Counselor Examination for
7 Licensure and Certification (NCE) and the National Clinical Mental
8 Health Counselor Examination (NCMHCE), be evaluated by the
9 board as a requirement for licensure as a professional counselor.

10 (2) The board shall evaluate various national examinations in
11 order to determine whether they meet the prevailing standards for
12 the validation and use of licensing and certification tests in
13 California, as determined by the Office of Examination Resources
14 of the Department of Consumer Affairs.

15 (3) Examinations shall measure knowledge and abilities
16 demonstrably important to the safe, effective practice of the
17 profession.

18 (4) If national examinations do not meet the standards specified
19 in paragraph (2), then the board may develop and require a
20 supplemental examination in addition to national examinations.
21 Under these circumstances, national examinations, as well as a
22 supplemental examination developed by the board, are required
23 for licensure as a professional counselor pursuant to paragraph (3)
24 of subdivision (a) of Section 4999.50 and this section.

25 (d) The board shall not deny any applicant who has submitted
26 a complete application for examination admission to the licensure
27 examination required by this section if the applicant meets the
28 educational and experience requirements of this chapter, and has
29 not committed any acts or engaged in any conduct that would
30 constitute grounds to deny licensure.

31 (e) The board shall not deny any applicant whose application
32 for licensure is complete, admission to the examination, nor shall
33 the board postpone or delay any applicant's examination or delay
34 informing the candidate of the results of the examination, solely
35 upon the receipt by the board of a complaint alleging acts or
36 conduct that would constitute grounds to deny licensure.

37 (f) If an applicant for examination is the subject of a complaint
38 or is under board investigation for acts or conduct that, if proven
39 to be true, would constitute grounds for the board to deny licensure,
40 the board shall permit the applicant to take the examination, but

1 may notify the applicant that licensure will not be granted pending
2 completion of the investigation.

3 (g) Notwithstanding Section 135, the board may deny any
4 applicant who has previously failed an examination permission to
5 retake that examination pending completion of the investigation
6 of any complaints against the applicant.

7 (h) Nothing in this section shall prohibit the board from denying
8 an applicant admission to any examination, withholding the results,
9 or refusing to issue a license to any applicant when an accusation
10 or statement of issues has been filed against the applicant pursuant
11 to Section 11503 or 11504 of the Government Code, respectively,
12 or the applicant has been denied in accordance with subdivision
13 (b) of Section 485.

14 (i) Notwithstanding any other provision of law, the board may
15 destroy all examination materials two years following the date of
16 an examination.

17 4999.54. Notwithstanding Section 4999.50, the board may
18 issue a license to any person who submits an application for a
19 license between October 1, 2008, and March 31, 2009, provided
20 that all documentation is submitted within 12 months of the board's
21 evaluation of the application, and provided he or she meets one of
22 the following sets of criteria:

23 (a) He or she meets all of the following requirements:

24 (1) Has a master's or doctoral degree in counseling, or a closely
25 related degree, from a school, college, or university as specified
26 in Section 4999.32. Closely related degrees are degrees that include
27 the minimum core coursework required in this section. If the
28 person's degree does not include all the graduate coursework in
29 all nine subject areas required by paragraph (1) of subdivision (c)
30 of Section 4999.32, a person shall provide documentation that he
31 or she has completed the required coursework postdegree. Any
32 qualifying degree must include the supervised practicum or field
33 study experience as required in paragraph (4) of subdivision (c)
34 of Section 4999.32.

35 (A) Degrees issued prior to 1996, minimum of 30 semester units
36 or 45 quarter units, shall include at least five of the nine required
37 courses specified in paragraph (1) of subdivision (c) of Section
38 4999.32. The total number of units shall be no less than 48 semester
39 units or 72 quarter units.

(B) Degrees issued in 1996 and after, minimum of 48 semester units or 72 quarter units, shall include at least seven of the nine courses specified in paragraph (1) of subdivision (c) of Section 4999.32.

(2) Coursework required outside the degree program, as required by Section 4999.38.

(3) Has at least two years, full-time or the equivalent, postdegree counseling experience, that includes at least 1,000 hours of direct client contact experience supervised by a licensed mental health professional, or a certified master's level counselor or therapist.

(4) Has a passing score on the following examinations:

(A) The National Counselor Examination for Licensure and Certification or the Certified Rehabilitation Counselor Examination.

(B) The National Clinical Mental Health Counselor Examination.

(b) Is currently licensed as a marriage and family therapist in the State of California and meets the coursework requirements described in paragraph (1) of subdivision (a).

(c) Is currently licensed as a clinical social worker in the State of California and meets the coursework requirements described in paragraph (1) of subdivision (a) and the examination requirements described in paragraph (4) of subdivision (a).

4999.56. A license issued under subdivision (a) or (c) of Section 4999.54 shall be valid for six years from the issuance date of the initial license. After this six-year period, it shall be canceled unless the licensee obtains a licensure renewal. The board shall begin accepting applications for licensure renewal on January 1, 2010. A person applying for licensure renewal shall pass the examinations specified in Section 4999.52, which are required for licensure on and after July 1, 2009, or document that he or she has already passed those examinations.

Article 4. Practice Requirements

4999.70. A licensee shall display his or her license in a conspicuous place in his or her primary place of practice.

4999.72. Any licensed professional counselor who conducts a private practice under a fictitious business name shall not use any name that is false, misleading, or deceptive, and shall inform the

1 patient, prior to the commencement of treatment, the name and
2 license designation of the owner or owners of the practice.

3 4999.74. Licensed professional counselors shall provide to
4 each client an accurate and informative document containing all
5 of the following:

6 (a) The fee schedule listed by type of service or hourly rate.

7 (b) An explanation of the limits of confidentiality.

8 (c) The words, “This information is required by the Board of
9 Behavioral Sciences which regulates all licensed professional
10 counselors.”

11 (d) The name, address, and telephone number of the board.

12 4999.76. (a) Except as provided in subdivision (c), the board
13 shall not renew any license pursuant to this chapter unless the
14 applicant certifies to the board, on a form prescribed by the board,
15 that he or she has completed not less than 36 hours of approved
16 continuing education in or relevant to the field of professional
17 counseling in the preceding two years, as determined by the board.

18 (b) The board shall have the right to audit the records of any
19 applicant to verify the completion of the continuing education
20 requirement. Applicants shall maintain records of completed
21 continuing education coursework for a minimum of two years and
22 shall make these records available to the board for auditing
23 purposes upon request.

24 (c) The board may establish exceptions from the continuing
25 education requirement of this section for good cause, as defined
26 by the board.

27 (d) The continuing education shall be obtained from one of the
28 following sources:

29 (1) A school, college, or university that meets the requirements
30 set forth in subdivision (a) of Section 4999.32. Nothing in this
31 paragraph shall be construed as requiring coursework to be offered
32 as part of a regular degree program.

33 (2) Other continuing education providers, including, but not
34 limited to, a professional counseling association, a licensed health
35 facility, a governmental entity, a continuing education unit of a
36 four-year institution of higher learning that is accredited or
37 approved, or a mental health professional association, approved
38 by the board.

39 (e) The board shall establish, by regulation, a procedure for
40 approving providers of continuing education courses, and all

1 providers of continuing education, as described in paragraphs (1)
2 and (2) of subdivision (d), shall adhere to procedures established
3 by the board. The board may revoke or deny the right of a provider
4 to offer continuing education coursework pursuant to this section
5 for failure to comply with the requirements of this section or any
6 regulation adopted pursuant to this section.

7 (f) Training, education, and coursework by approved providers
8 shall incorporate one or more of the following:

9 (1) Aspects of the discipline that are fundamental to the
10 understanding or the practice of professional counseling.

11 (2) Significant recent developments in the discipline of
12 professional counseling.

13 (3) Aspects of other disciplines that enhance the understanding
14 or the practice of professional counseling.

15 (g) A system of continuing education for licensed professional
16 counselors shall include courses directly related to the diagnosis,
17 assessment, and treatment of the client population being served.

18 (h) The board shall, by regulation, fund the administration of
19 this section through continuing education provider fees to be
20 deposited in the Behavioral Sciences Fund. The fees related to the
21 administration of this section shall be sufficient to meet, but shall
22 not exceed, the costs of administering the corresponding provisions
23 of this section. For the purposes of this subdivision, a provider of
24 continuing education as described in paragraph (1) of subdivision
25 (d) shall be deemed to be an approved provider.

26 (i) The continuing education requirements of this section shall
27 fully comply with the guidelines for mandatory continuing
28 education established by the Department of Consumer Affairs
29 pursuant to Section 166.

30 31 Article 5. Enforcement

32
33 4999.80. In order to carry out the provisions of this chapter,
34 the board shall do all of the following:

35 (a) Enforce laws designed to protect the public from
36 incompetent, unethical, or unprofessional practitioners.

37 (b) Investigate complaints concerning the conduct of any
38 licensed professional counselor.

39 (c) Revoke, suspend, or fail to renew a license that it has
40 authority to issue for just cause, as enumerated in rules and

1 regulations of the board. The board may deny, suspend, or revoke
2 any license granted under this chapter pursuant to Section 480,
3 481, 484, 496, 498, or 499.

4 4999.82. It shall be unlawful for any person to engage in any
5 of the following acts:

6 (a) Engage in the practice of professional counseling, as defined
7 in Section 4999.20, without first having complied with the
8 provisions of this chapter and without holding a valid license as
9 required by this chapter.

10 (b) Represent himself or herself by the title “licensed
11 professional counselor,” “LPC,” “licensed counselor,” or
12 “professional counselor” without being duly licensed according
13 to the provisions of this chapter.

14 (c) Make any use of any title, words, letters, or abbreviations,
15 that may reasonably be confused with a designation provided by
16 this chapter to denote a standard of professional or occupational
17 competence without being duly licensed.

18 (d) Materially refuse to furnish the board information or records
19 required or requested pursuant to this chapter.

20 4999.84. It is the intent of the Legislature that any
21 communication made by a person to a licensed professional
22 counselor in the course of professional services shall be deemed
23 a privileged communication.

24 4999.86. Any person who violates any of the provisions of this
25 chapter is guilty of a misdemeanor punishable by imprisonment
26 in the county jail not exceeding six months, or by a fine not
27 exceeding two thousand five hundred dollars (\$2,500), or by both
28 that fine and imprisonment.

29 4999.88. In addition to other proceedings provided in this
30 chapter, whenever any person has engaged, or is about to engage,
31 in any acts or practices that constitute, or will constitute, an offense
32 against this chapter, the superior court in and for the county
33 wherein the acts or practices take place, or are about to take place,
34 may issue an injunction, or other appropriate order, restraining
35 such conduct on application of the board, the Attorney General,
36 or the district attorney of the county.

37 The proceedings under this section shall be governed by Chapter
38 3 (commencing with Section 525) of Title 7 of Part 2 of the Code
39 of Civil Procedure.

1 4999.90. The board may refuse to issue any registration or
2 license, or may suspend or revoke the registration or license of
3 any intern or licensed professional counselor, if the applicant,
4 licensee, or registrant has been guilty of unprofessional conduct.
5 Unprofessional conduct includes, but is not limited to, the
6 following:

7 (a) The conviction of a crime substantially related to the
8 qualifications, functions, or duties of a licensee or registrant under
9 this chapter. The record of conviction shall be conclusive evidence
10 only of the fact that the conviction occurred. The board may inquire
11 into the circumstances surrounding the commission of the crime
12 in order to fix the degree of discipline or to determine if the
13 conviction is substantially related to the qualifications, functions,
14 or duties of a licensee or registrant under this chapter. A plea or
15 verdict of guilty or a conviction following a plea of nolo contendere
16 made to a charge substantially related to the qualifications,
17 functions, or duties of a licensee or registrant under this chapter
18 shall be deemed to be a conviction within the meaning of this
19 section. The board may order any license or registration suspended
20 or revoked, or may decline to issue a license or registration when
21 the time for appeal has elapsed, or the judgment of conviction has
22 been affirmed on appeal, or, when an order granting probation is
23 made suspending the imposition of sentence, irrespective of a
24 subsequent order under Section 1203.4 of the Penal Code allowing
25 the person to withdraw a plea of guilty and enter a plea of not
26 guilty, or setting aside the verdict of guilty, or dismissing the
27 accusation, information, or indictment.

28 (b) Securing a license or registration by fraud, deceit, or
29 misrepresentation on any application for licensure or registration
30 submitted to the board, whether engaged in by an applicant for a
31 license or registration, or by a licensee in support of any application
32 for licensure or registration.

33 (c) Administering to himself or herself any controlled substance
34 or using any of the dangerous drugs specified in Section 4022, or
35 any alcoholic beverage to the extent, or in a manner, as to be
36 dangerous or injurious to the person applying for a registration or
37 license or holding a registration or license under this chapter, or
38 to any other person, or to the public, or, to the extent that the use
39 impairs the ability of the person applying for or holding a
40 registration or license to conduct with safety to the public the

1 practice authorized by the registration or license, or the conviction
2 of more than one misdemeanor or any felony involving the use,
3 consumption, or self-administration of any of the substances
4 referred to in this subdivision, or any combination thereof. The
5 board shall deny an application for a registration or license or
6 revoke the license or registration of any person, other than one
7 who is licensed as a physician and surgeon, who uses or offers to
8 use drugs in the course of performing licensed professional
9 counseling services.

10 (d) Gross negligence or incompetence in the performance of
11 licensed professional counseling services.

12 (e) Violating, attempting to violate, or conspiring to violate any
13 of the provisions of this chapter or any regulation adopted by the
14 board.

15 (f) Misrepresentation as to the type or status of a license or
16 registration held by the person, or otherwise misrepresenting or
17 permitting misrepresentation of his or her education, professional
18 qualifications, or professional affiliations to any person or entity.

19 (g) Impersonation of another by any licensee, registrant, or
20 applicant for a license or registration, or, in the case of a licensee
21 or registrant, allowing any other person to use his or her license
22 or registration.

23 (h) Aiding or abetting, or employing, directly or indirectly, any
24 unlicensed or unregistered person to engage in conduct for which
25 a license or registration is required under this chapter.

26 (i) Intentionally or recklessly causing physical or emotional
27 harm to any client.

28 (j) The commission of any dishonest, corrupt, or fraudulent act
29 substantially related to the qualifications, functions, or duties of a
30 licensee or registrant.

31 (k) Engaging in sexual relations with a client, or a former client
32 within two years following termination of therapy, soliciting sexual
33 relations with a client, or committing an act of sexual abuse, or
34 sexual misconduct with a client, or committing an act punishable
35 as a sexually related crime, if that act or solicitation is substantially
36 related to the qualifications, functions, or duties of a licensed
37 professional counselor.

38 (l) Performing, or holding oneself out as being able to perform,
39 or offering to perform, or permitting any trainee or intern under

1 supervision to perform, any professional services beyond the scope
2 of the license authorized by this chapter.

3 (m) Failure to maintain confidentiality, except as otherwise
4 required or permitted by law, of all information that has been
5 received from a client in confidence during the course of treatment
6 and all information about the client which is obtained from tests
7 or other means.

8 (n) Prior to the commencement of treatment, failing to disclose
9 to the client or prospective client the fee to be charged for the
10 professional services, or the basis upon which that fee will be
11 computed.

12 (o) Paying, accepting, or soliciting any consideration,
13 compensation, or remuneration, whether monetary or otherwise,
14 for the referral of professional clients. All consideration,
15 compensation, or remuneration shall be in relation to professional
16 counseling services actually provided by the licensee. Nothing in
17 this subdivision shall prevent collaboration among two or more
18 licensees in a case or cases. However, no fee shall be charged for
19 that collaboration, except when disclosure of the fee has been made
20 in compliance with subdivision (n).

21 (p) Advertising in a manner that is false, misleading, or
22 deceptive.

23 (q) Reproduction or description in public, or in any publication
24 subject to general public distribution, of any psychological test or
25 other assessment device, the value of which depends in whole or
26 in part on the naivete of the subject, in ways that might invalidate
27 the test or device.

28 (r) Any conduct in the supervision of any intern or trainee by
29 any licensee that violates this chapter or any rules or regulations
30 adopted by the board.

31 (s) Performing or holding oneself out as being able to perform
32 professional services beyond the scope of one's competence, as
33 established by one's education, training, or experience. This
34 subdivision shall not be construed to expand the scope of the
35 license authorized by this chapter.

36 (t) Permitting a trainee or intern under one's supervision or
37 control to perform, or permitting the trainee or intern to hold
38 himself or herself out as competent to perform, professional
39 services beyond the trainee's or intern's level of education, training,
40 or experience.

1 (u) The violation of any statute or regulation of the standards
2 of the profession, and the nature of the services being rendered,
3 governing the gaining and supervision of experience required by
4 this chapter.

5 (v) Failure to keep records consistent with sound clinical
6 judgment, the standards of the profession, and the nature of the
7 services being rendered.

8 (w) Failure to comply with the child abuse reporting
9 requirements of Section 11166 of the Penal Code.

10 (x) Failing to comply with the elder and dependent adult abuse
11 reporting requirements of Section 15630 of the Welfare and
12 Institutions Code.

13 (y) Repeated acts of negligence.

14
15 Article 6. Revenue

16
17 4999.100. (a) An intern registration shall expire one year from
18 the last day of the month in which it was issued.

19 (b) To renew a registration, the registrant shall, on or before the
20 expiration date of the registration, do the following:

21 (1) Apply for a renewal on a form prescribed by the board.

22 (2) Pay a renewal fee prescribed by the board.

23 (3) Notify the board whether he or she has been convicted, as
24 defined in Section 490, of a misdemeanor or felony, or whether
25 any disciplinary action has been taken by any regulatory or
26 licensing board in this or any other state, subsequent to the
27 registrant's last renewal.

28 4999.102. (a) Licenses issued under this chapter shall expire
29 no more than 24 months after the issue date. The expiration date
30 of the original license shall be set by the board.

31 (b) To renew an unexpired license, the licensee, on or before
32 the expiration date of the license, shall do all of the following:

33 (1) Apply for a renewal on a form prescribed by the board.

34 (2) Pay a two-year renewal fee prescribed by the board.

35 (3) Certify compliance with the continuing education
36 requirements set forth in Section 4999.76.

37 (4) Notify the board whether he or she has been convicted, as
38 defined in Section 490, of a misdemeanor or felony, or whether
39 any disciplinary action has been taken by any regulatory or

1 licensing board in this or any other state, subsequent to the
2 licensee's last renewal.

3 4999.104. A license that has expired may be renewed at any
4 time within three years of expiration. To renew an expired license,
5 the licensee shall do all of the following:

6 (a) File an application for renewal on a form prescribed by the
7 board.

8 (b) Pay all fees that would have been paid if the license had not
9 become delinquent.

10 (c) Pay all delinquency fees.

11 (d) Certify compliance with the continuing education
12 requirements set forth in Section 4999.76.

13 (e) Notify the board whether he or she has been convicted, as
14 defined in Section 490, of a misdemeanor or felony, or whether
15 any disciplinary action has been taken by any regulatory or
16 licensing board in this or any other state, subsequent to the
17 licensee's last renewal.

18 4999.106. A license that is not renewed within three years after
19 its expiration may not be renewed, restored, reinstated, or reissued,
20 except that a former licensee may apply for and obtain a new
21 license if he or she complies with all of the following:

22 (a) No fact, circumstance, or condition exists that, if the license
23 were issued, would justify its revocation or suspension.

24 (b) He or she takes and passes the current examination required
25 for licensing.

26 (c) He or she submits an application for initial licensure.

27 4999.108. A suspended license is subject to expiration and
28 shall be renewed as provided in this article, but that renewal does
29 not entitle the licensee, while it remains suspended and until it is
30 reinstated, to engage in the activity to which the license relates, or
31 in any other activity or conduct in violation of the order or
32 judgment by which it was suspended.

33 4999.110. A revoked license is subject to expiration as provided
34 in this article, but it may not be renewed. If it is reinstated after its
35 expiration, the licensee shall, as a condition precedent to its
36 reinstatement, pay a reinstatement fee in an amount equal to the
37 renewal fee in effect on the last regular renewal date before the
38 date on which it is reinstated, plus the delinquency fee, if any,
39 accrued at the time of its revocation.

1 4999.112. (a) A licensed professional counselor may apply to
2 the board to request that his or her license be placed on inactive
3 status. A licensee who holds an inactive license shall do all of the
4 following:

- 5 (1) Pay a biennial fee of one-half of the active renewal fee.
- 6 (2) Be exempt from continuing education requirements.
- 7 (3) Not engage in the practice of professional counseling in this
8 state.
- 9 (4) Otherwise be subject to this chapter.

10 (b) A licensee on inactive status may have his or her license
11 reactivated by complying with all of the following:

- 12 (1) Submitting a request to the board.
- 13 (2) Certifying that he or she has not committed any acts or
14 crimes constituting grounds for denial of licensure.
- 15 (3) Paying the remaining one-half of the renewal fee.
- 16 (4) Completing the following continuing education requirements:
17 (A) Eighteen hours of continuing education is required within
18 the two years preceding the date of the request for reactivation if
19 the license will expire less than one year from the date of the
20 request for reactivation.
21 (B) Thirty-six hours of continuing education is required within
22 the two years preceding the date of the request for reactivation if
23 the license will expire more than one year from the date of the
24 request for reactivation.

25 4999.114. The board shall report each month to the Controller
26 the amount and source of all revenue received pursuant to this
27 chapter and at the same time deposit the entire amount thereof in
28 the State Treasury for credit to the Behavioral Sciences Fund.

29 ~~4999.116. (a) Notwithstanding Section 13340 of the~~
30 ~~Government Code and except as otherwise provided in Section~~
31 ~~207, the~~

32 *4999.116. (a) The moneys credited to the Behavioral Sciences*
33 *Fund under Section 4999.114 are continuously appropriated,*
34 *without regard to fiscal year, to the Board of Behavioral Sciences*
35 *for carrying out Section 4999.114 shall, upon appropriation by*
36 *the Legislature, be used for the purposes of carrying out and*
37 *enforcing the provisions of this chapter.*

38 (b) The board shall keep records that will reasonably ensure
39 that funds expended in the administration of each licensing or
40 registration category bear a reasonable relation to the revenue

1 derived from each category, and shall so notify the department no
2 later than May 31 of each year.

3 (c) Surpluses, if any, may be used in a way so as to bear a
4 reasonable relation to the revenue derived from each category, and
5 may include, but not be limited to, expenditures for education and
6 research related to each of the licensing or registration categories.

7 4999.118. A licensee or registrant shall give written notice to
8 the board of a name change within 30 days after each change,
9 giving both the old and new names. A copy of the legal document
10 authorizing the name change, such as a court order or marriage
11 certificate, shall be submitted with the notice.

12 4999.120. The board shall assess fees for the application for
13 and the issuance and renewal of licenses and for the registration
14 of interns to cover administrative and operating expenses of the
15 board related to this chapter.

16 4999.122. The professional counselor licensing program shall
17 be supported from fees assessed to applicants, interns, and
18 licensees. Startup funds to implement this program shall be derived,
19 as a loan, from the reserve fund of the Board of Behavioral
20 Sciences, subject to an appropriation by the Legislature in the
21 annual Budget Act. The board shall not be required to implement
22 this chapter until funds have been appropriated.

23 SEC. 5. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.